

itself when and under what circumstances a sovereign will be sued. These provisions would force Indian tribes to address, disclose, or waive their sovereign immunity in basic contracts, where a State or the Federal Government would not be required to do so.

Madam Speaker, I also note that this bill defines the term "Indian tribes" using the definition from the Indian Self-Determination and Education Assistance Act. That definition of the tribe includes, and I quote, "any Alaska native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Act." End of quote.

Senate bill 613 has no application on Alaska, and the Alaska Corporation does not possess "Indian lands" as such lands are defined in this bill. It is unfortunate that the Senate has not been more careful in the drafting of Senate bill 613. There is no reason to confuse the matters by references to tribes and the corporations in Alaska, especially since the bill has no impact or application to the State of Alaska and the treatment of the Native Alaskans.

However, Madam Speaker, since this bill does have the support of the administration and the National Congress of the American Indians, I urge support of this legislation.

Madam Speaker, I reserve the balance of my time.

Mr. SHERWOOD. Madam Speaker, I yield back the balance of my time.

Mr. FALEOMAVAEGA. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. SHERWOOD) that the House suspend the rules and pass the Senate bill, S. 613.

The question was taken.

Mr. SHERWOOD. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE RESOLUTION 396

Mr. BLUMENAUER. Madam Speaker, I ask unanimous consent to remove my name as a cosponsor of H. Res. 396.

The SPEAKER pro tempore (Mrs. EMERSON). Is there objection to the request of the gentleman from Oregon?

There was no objection.

#### LOWER SIOUX INDIAN COMMUNITY LAND TRANSFER

Mr. SHERWOOD. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 2484) to provide that land

which is owned by the Lower Sioux Indian Community in the State of Minnesota but which is not held in trust by the United States for the Community may be leased or transferred by the Community without further approval by the United States.

The Clerk read as follows:

H.R. 2484

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. APPROVAL NOT REQUIRED TO VALIDATE LAND TRANSACTIONS.

(a) IN GENERAL.—Notwithstanding any other provision of law, without further approval, ratification, or authorization by the United States, the Lower Sioux Indian Community in the State of Minnesota, may lease, sell, convey, warrant, or otherwise transfer all or any part of the Community's interest in any real property that is not held in trust by the United States for the benefit of the Community.

(b) TRUST LAND NOT AFFECTED.—Nothing in this section is intended or shall be construed to—

(1) authorize the Lower Sioux Indian Community in the State of Minnesota to lease, sell, convey, warrant, or otherwise transfer all or any part of an interest in any real property that is held in trust by the United States for the benefit of the Community; or

(2) affect the operation of any law governing leasing, selling, conveying, warranting, or otherwise transferring any interest in such trust land.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania (Mr. SHERWOOD) and the gentleman from American Samoa (Mr. FALEOMAVAEGA) each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. SHERWOOD).

Mr. SHERWOOD. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise today in support of H.R. 2484, legislation which will give the Lower Sioux Indian Community in Minnesota the right, without further approval from the Federal Government, to lease or sell land which the tribe has bought but which has not been taken into trust.

Existing Federal law enacted in 1834 provides that an Indian tribe may not lease, sell, or otherwise convey land which it has acquired unless conveyance is approved by Congress. This antiquated law applies even though the land was purchased by the tribe with its own money, and even though the land is located outside the tribe's reservation, and even though the land has never been taken into trust for the tribe.

The Lower Sioux Community has found this law to be a major detriment to economic development. The law puts the tribe at a distinct disadvantage, because it finds that it cannot develop or use land which it has acquired to its full advantage.

H.R. 2484 will allow the Lower Sioux Indian Community to use the fee land it has purchased just like any other

landowner, without having to come to Congress any time it wants to sell, lease, or even mortgage that land.

Madam Speaker, this is important to this small Minnesota tribe and I recommend its adoption.

Madam Speaker, I reserve the balance of my time.

Mr. FALEOMAVAEGA. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I certainly want to commend the gentleman from Minnesota (Mr. MINGE), my good friend, for sponsoring of this legislation. This legislation would permit the Lower Sioux Indian Community in Minnesota to lease or sell certain lands the tribe currently holds in fee status without further approval by the United States Government.

This provision would apply only to lands held in fee by the tribe and not lands held in trust by the United States for the tribe's benefit.

Current law and regulations established to protect Indian lands from alienation have been, in some instances, interpreted in a very restrictive manner. The Lower Sioux Indian Community has had trouble leasing and selling land which is not held in trust but in fee status without receiving prior approval of the Secretary of the Interior. This legislation would allow the tribe to make decisions and use land it has purchased and holds in fee status in the same manner as any other landowner, without having to commit to additional congressional or Secretarial approval.

Madam Speaker, although no formal administration views have been received by us on this legislation, I have been told informally by the Bureau of Indian Affairs that they do support the legislation, provided it does deal solely with lands held in fee status.

Not all tribes have encountered problems like this, Madam Speaker, when selling or leasing fee land. However, we need to address the problems faced by the Lower Sioux Indian Community of Minnesota, and I do urge my colleagues to support this legislation.

□ 1430

Mr. FALEOMAVAEGA. Madam Speaker, I yield such time as he may consume to the gentleman from Mississippi (Mr. MINGE) in response to this bill.

Mr. MINGE. Madam Speaker, I would like to thank the Speaker and I would like to thank the Chair and the ranking member of the subcommittee for moving this legislation through the committee.

I would also like to report that I am familiar with the Indian tribe that is involved here, the Lower Sioux community. It is in my congressional district. It is a relatively small Indian community, Native American community; but I would like to emphasize it is

very well administered. It has acquired this land and feels that, in order to remove a cloud from title, this act of Congress is necessary.

I would like to suggest to the subcommittee that it consider legislation that deals with this type of situation because I expect that the Lower Sioux community is not the only Native American group in the United States that faces this type of obstacle, to the disposition of land, that it has purchased which has not been in trust status which is off of its reservation area.

As we see here in the 21st century, we have a number of Native American communities that are becoming more prosperous. They are engaging in commerce. I think that it would certainly facilitate the activities of these communities if, in these fairly well-defined situations where there is not a concern about any abuse in connection with the assets of the community, that they had the flexibility to, on their own, make these transfers and not have the cloud on title that exists in situations such as this one.

I have worked with the community in crafting this legislation, with the administration, and also with the committee and subcommittee staff. I would like to express my appreciation to the staff, members of both the committee and the subcommittee.

At the request of the Lower Sioux Indian Community I have sponsored legislation that would exempt land owned in fee by the Community from the effect of the Indian Nonintercourse Act, 25 U.S.C. 177 (1994) (INA). In recent years, the Community has acquired several parcels of property outside the boundaries of its Reservation. It is likely that not all of those parcels will not be needed for the development which the Community contemplates. Therefore, the Community should have the ability to dispose of any unneeded portions of fee land as and when appropriate purchasers may appear. At present it is unclear whether the INA prohibits such transactions absent an Act of Congress. It was this problem which prompted the Community to seek legislation that will permit similar conveyances without resorting to the cumbersome and time-consuming legislative process each time an individual sale is agreed to.

The terms of the INA does not distinguish between fee land and trust land. My bill states that "No conveyance of lands from any tribe of Indians shall be of any validity unless the same be made by treaty or convention entered into pursuant to the Constitution." In the past, this has been interpreted to mean that Congress must either give direct approval or must establish the process for giving such approval. Although Congress has allowed the Secretary of the Interior to approve the conveyance of lands owned in trust for tribes by the United States, Congress has never set up any process for approving the conveyance of fee lands.

The "clouding" effect of the INA is illustrated in a discussion contained in a brief filed with the United States Supreme Court by the United States Department of Justice, in *Cass*

*County, Minnesota v. Leech Lake Band of Chippewa Indians*. The brief observed that "[i]n recent times, Congress and the Executive Branch have assumed that the INA requires congressional approval of sales of all tribally owned lands, whether or not those lands are within a reservation". [Brief of the United States as Amicus Curiae, supporting Respondent, Case No. 97-174 (January, 1998), at 28 (footnote 13).] Congress repeatedly has passed legislation allowing individual fee parcels of tribal land to be sold. Congress has on several occasions in recent years adopted legislation similar to that which the Community seeks.

For example, P.L. 86-505, § 1, 74 Stat. 199, authorizing the Navajo Tribe to dispose of its fee lands without federal approval; P.L. 101-630, 104 Stat. 4531, authorizing the sale of a parcel of land owned in fee simple by the Rumsey Indian Rancheria; P.L. 101-379, § 11, 104 Stat. 473, authorizing the Eastern Band of Cherokee Indians to convey a particular parcel of its fee land; P.L. 102-497, § 4, 106 Stat. 3255, authorizing the Mississippi Band of Choctaw Indians to convey certain lands which it owned in fee.

The Supreme Court has never ruled that the wording of the INA does not apply to fee lands. In fact, in a case decided just last year, the Court made a point of saying that the question is open: "This Court has never determined whether the Indian Nonintercourse Act . . . applies to land that has been rendered alienable. . . . *Cass County v. Leech Lake Band*," U.S., 118 S.Ct. 1904 (1998). The assumption has been, and still is, that the Act prevents the sale of fee land without congressional approval. This is the legal position of the United States, citing the amicus brief of the United States in the *Cass County* case. And the Department of the Interior has taken the position that it cannot not give the Lower Sioux Community permission to sell fee land because Congress has not given the Department that authority.

Most importantly, purchasers assume that the consent of Congress is required before tribal fee land can be sold. The effect of all this is that the Lower Sioux Community is stymied. The wording of the INA seems to say that congressional permission is needed to sell fee land; the Justice Department acknowledges that; the Department of the Interior acknowledges that; Congress has acknowledged that; and purchasers acknowledge that. This bill will solve that problem for the Lower Sioux Indian Community. This is a matter of fairness.

Mr. FALEOMAVAEGA. Madam Speaker, I have no further speakers, and I yield back the balance of my time.

Mr. SHERWOOD. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. EMERSON). The question is on the motion offered by the gentleman from Pennsylvania (Mr. SHERWOOD) that the House suspend the rules and pass the bill, H.R. 2484.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

#### GENERAL LEAVE

Mr. SHERWOOD. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1749, S. 613, and H.R. 2484, the three bills just debated.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

#### SPECIAL ORDERS

##### HERITAGE AND HORIZONS: THE AFRICAN AMERICAN LEGACY AND THE CHALLENGES OF THE 21ST CENTURY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 1999, the gentlewoman from Ohio (Mrs. JONES) is recognized for 60 minutes as the designee of the minority leader.

Mrs. JONES of Ohio. Madam Speaker, it is always a great opportunity for me to have opportunity to address the Congress in a special order, particularly when the gentlewoman from Missouri (Mrs. EMERSON) is the Speaker pro tempore.

Our theme today is Heritage and Horizons: The African American Legacy and the Challenges of the 21st Century. As we come to the close of the celebrated African American history month, it is a great opportunity for the Congressional Black Caucus to organize a special order to celebrate black history. I want to thank the gentleman from South Carolina (Chairman CLYBURN) for designating me to organize this special order.

I took up the mantle after my predecessor, the Congressman from the 11th Congressional District of Ohio, Congressman Louis Stokes, who had this responsibility for his 30 years in Congress.

The theme for this year's Black History Special Order is Heritage and Horizons: The African American Legacy and the Challenges of the 21st Century.

As we embark upon a new millennium, I believe it painful and powerful that this theme allows us to pay tribute to our past and allows us to make plans for our future. The question is how do we plan for our future. One way is to plan for our future by giving tribute to our past, learning the lessons of our past and paying tribute to our successes as a people.

I believe the past can serve as a blueprint for future generations on how to get things done.

There are many events that have shaped and defined the African American experience in America today that never should be forgotten. What should never be forgotten is the sacrifice that others have made to ensure future generations' success.